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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,184	11/06/2000	Venky Narayanaswamy	869.005US1(5302)	8123

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EXAMINER

TRAN LIEN, THUY

ART UNIT	PAPER NUMBER
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1761

14

DATE MAILED: 10/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/707,184

Applicant(s)

Narayanaswamy et al

Examiner
Lien Tran

Art Unit
1761



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Sept. 5, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-15, 26-28, and 30-35 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-15, 26-28, and 30-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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1. Claims 1,2,5-9,11-15,27,28,30 and 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drummond et al.

Drummond et al disclose a packaged dough suitable for extended refrigerated storage. The dough can be a variety of types such as biscuits, muffins, sweet rolls, bread products and brownies. The packaging is a non-pressurized, hermetically sealed gas and moisture barrier package. The headspace in the package is flushed with a gas comprising a predetermined amount of carbon dioxide and the gas is maintained in place in the headspace. The carbon dioxide gas may be combined with another inert gas or gas mixture such as nitrogen, neon, argon and helium. The ambient air is replaced by the gas thereby minimizing the amount of residual oxygen and hence oxidation the dough product. The dough product can contain other conventional dough components such as salt, sugar, milk solids, egg, fat etc... The tray which is used to package the dough product can be a tray in which the dough product is baked after the package is opened. (See columns 3-6)

Drummond et al do not disclose the packaging is a pouch, the density and the specific ratio of sugar to flour and amount of fat.

While Drummond et al do not specifically disclose the ratio of sugar to flour, they do disclose a variety of dough product and the dough cited in example 1 has a sugar:flour ratio and fat content within the range claimed. Of course, the ratio of sugar:flour and the amount of fat depend on the type of dough. Some doughs such as biscuits and bread contains small amount of sugar while other dough such as brownies contains a large amount of sugar. The same is true

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with the fat. It would have been obvious to one skilled in the art to vary the ratio of sugar:flour and the amount of fat depending on the type of dough made. It would also have been obvious to use a pouch because a pouch is a known type of package and Drummond does not restrict the container to any form as long as it provides the adequate moisture and gas barrier. As to the amount of residual oxygen, the Drummond et al dough package is flushed with inert gas to replace the ambient air and thereby minimizing the amount of residual oxygen. This is the procedure used in the claimed packaged dough; thus, it is obvious the oxygen content of the Drummond et al dough is within the range claimed. The density of the dough depends on the type of dough and the texture. For example, a high density dough will have a harder texture and a low density dough will give a lighter texture; thus, it would have been obvious to determine the density in accordance to the type of dough and the texture desired in the end product. With respect to claims 31-35, the way in which the dough is made does not determine the patentability of "product-by-process" claims.

2. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drummond et al in view of LeFlecher et al and Durst..

Drummond et al do not disclose encapsulated leavening ingredient and the use of polyol.

LeFlecher et al teach encapsulated chemical leavening agent which is stable during the storage of the dough. (See col. 2 lines 32-38).

Durst teach to add polyol to control the water activity (see col. 6)

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It would have been obvious to one skilled in the art to use encapsulated leaveners as taught by LeFlecher et al in the Drummond et al dough when one wants to control the activity of the leaveners during storage and to activate the leaveners during the baking of the dough. It would also have been obvious to add polyol as humectant when one desires to control the water activity. Drummond et al teach conventional dough components can be added.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Tran whose telephone number is 703-308-1868. The examiner can normally be reached on Wed-Fri. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

October 18, 2002


LIEN TRAN
PRIMARY EXAMINER
Group 170U